

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 798 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

BALDEVBHAI BHAGWANBHAI RABARI

Versus

AHMEDABAD MUNICIPAL CORPORATION

Appearance:

MR KC SHAH for Petitioner

MR RR MARSHALL for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 01/02/2000

ORAL JUDGEMENT

#. Heard learned counsel for the parties.

#. Under the impugned order of the court below the
application filed by the plaintiff-petitioner for the

amendment of the plaint was came to be rejected.

#. The amendment in the plaint was sought at the very initial stage. The learned Court below accepted that it is settled position of law that normally amendments in pleadings to be granted liberally and the courts have wide discretion in the matter of grant thereof. The court though has understood the law correctly but has not applied it properly in the present case. I fail to see how any irreparable injury will cause to the other side in case amendment in plaint as prayed for is granted. In the written statement it has all the right to raise the points against the amended plaint. This is not correct to state that this amendment in plaint will introduce totally a different and new case. From the order impugned in this revision application, I find that this proposed amendment in plaint became necessary because of the defence taken by the defendants in their written statements. The learned Trial Court rejected the amendment application highly influenced by the fact that the interim relief is granted re the plot No.288 is also be considered for plot No.287. This is wholly a perverse approach in the matter. In fact the learned counsel for the respondents opposing this revision application only on the ground that in case this amendment is allowed the order of the court below of grant of interim relief will also cover the plot No.287. The interim relief granted for plot No.288 will not be automatically read and cover the plot No.287. In case the order of the learned trial court is allowed to stand it will occasion a failure of justice to the petitioner as for the plot No.287 he has to file separate suit. Under the provisions of Order 6 Rule 17 of the Code of Civil Procedure to avoid multiplicity of the proceedings the amendments in the pleadings are liberally be granted.

#. In the result, this revision application succeeds and the same is allowed and the order of the court below dated 26/2/1996 is quashed and set aside and the application filed by the petitioner for amendment of the plaint is granted. The defendants-respondents have all the right to contest the amended plaint. However, the interim relief, which is granted in the suit regarding the plot No.288 shall not be read and understood for the final plot No.287. But the plaintiff-petitioner is free to apply for grant of interim relief regarding the final plot No.287 and if such an application comes the court will decide the same in accordance with law.

The rule is made absolute. No order as to costs.

(S.K.Keshote, J.)

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